

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Proceeding by the Department of Telecommunications
and Energy on its own Motion to Implement the
Requirements of the Federal Communications
Commission's Triennial Review Order Regarding
Switching for Mass Market Customers

D.T.E. 03-60

**COMMENTS OF COVAD COMMUNICATIONS
ON HOT CUT PROCESSES**

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Dated: April 5, 2005

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Covad Communications Company, by and through the undersigned counsel and
in accordance with the Massachusetts Department of Telecommunications and Energy
Memorandum issued March 11, 2005, respectfully submits the following comments.

I. INTRODUCTION

Covad is in general agreement that the hot cut process ordered by the New York
Public Service Commission is appropriate for use in Massachusetts as well, provided that certain
essential aspects are clarified by the Department of Telecommunications and Energy. In
considering Verizon's proposal to import the New York process, the DTE must require that the
process and rates be tariffed, clarify that Verizon must not discriminate between voice and data
loops, and order Verizon to update the hot cut processes to incorporate xDSL issues (and other
data loop processes) still being addressed in the change management process.

II. THE HOT CUT PROCESSES SHOULD BE UPDATED AND TARIFFED

The hot cut processes recently developed for Verizon in New York should be utilized in Massachusetts as well. In fact, the New York PSC's decision to revise its standard hot cut process was based in part on the fact that Verizon was already utilizing elements of its Wholesale Provisioning Tracking System (WPTS) here in Massachusetts.¹ Thus, formally requiring the use of WPTS here closes the loop on this portion of the cooperative development of superior hot cut methods.

It is essential, however, that adaptation of the hot cut process for Massachusetts be accomplished through tariff. First and foremost, Massachusetts law requires that all rates be tariffed,² and Verizon's filing of February 24, 2005 ("Verizon Proposal"), leaves no doubt that Verizon intends to charge carriers for hot cuts.³ Second, there is simply no basis for Verizon's suggestion that carriers "execute an appropriate amendment"⁴ as a precondition to utilization of a system that Verizon itself describes as having been developed "to improve processes and efficiencies for both CLECs and Verizon."⁵ Since these are uncontested process improvements and corresponding rate changes, as compared to, for example, the highly-contested changes in law resulting from the FCC's Triennial Review Remand Order,⁶ they are most appropriately implemented through tariff. To do otherwise would simply cause unnecessary delay in bringing

¹ NY PSC Case 02-C-1425, Ruling on Process for Consideration of Individual Hot Cuts, July 22, 2003.

² *See, e.g.*, MASS GEN. LAWS Ch. 159, §§13, 14, 17, 19 and 20 (2005).

³ Verizon's proposed charges for initial cuts range from \$42.53 to 127.66.

⁴ Verizon proposal at page 2.

⁵ *Id.* at attachment 1.

⁶ *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Order on Remand (rel. February 4, 2005) (hereinafter *TRO Remand*).

the benefits of the process improvements to the market.⁷ Finally, sound policy dictates that hot cut rates and processes, that are used by many carriers and undergo frequent revision, be clearly stated in publicly available tariffs.

III. THE HOT CUT PROCESSES AND RATES MUST APPLY EQUALLY TO VOICE AND DATA LOOPS

The DTE must prevent any attempts by Verizon to discriminate between users of loops for voice and data, and therefore require Verizon to migrate xDSL loops being used to provide a voice service, as well as line sharing, line splitting and loop sharing arrangements,⁸ using the same processes and at the same rates as voice loops. The DTE should also clarify that Verizon must include DSL or voice and data loops in the “Large Job” and “Batch” hot cut processes.⁹

Though hot cut costs may vary by loop type (e.g., two-wire versus four-wire), the actual work to be performed as part of the hot cut process for voice, data or voice and data loops providing voice service remains consistent. As a result, the cost of the hot cut may not vary based simply on the type of transmission that flows over the loop. There being no legitimate reason for Verizon to attempt to differentiate on such a basis, the DTE should clarify at the outset that any such attempts at discrimination (to, e.g., protect high-growth, high-margin services from competition) will not be tolerated and are specifically prohibited.

⁷ In apparent recognition of this fact, Verizon provides no support for its assertion of an amendment requirement.

⁸ “Line sharing” occurs with a loop over which Verizon provides voice service and a CLEC such as Covad provides data service. “Line splitting” occurs with a loop over which a CLEC provides UNE-P voice service and a CLEC such as Covad provides data service. “Loop sharing” occurs with a loop over which a CLEC provides UNE-L voice service and a CLEC such as Covad provides data service.

⁹ See, e.g., Verizon Proposal at pages 1-2, and DTE Notice at page 1.

Covad's ability to provide data services will be greatly impaired if Verizon does not have an adequate loop migration process. The rapid transition from separate, standalone voice and data services to one singled bundled voice and data service cannot be seriously disputed. The competitive and economic importance of telecommunications service bundles and the effect of bundles on the number of hot cuts required place even greater importance on the need for Verizon to have an adequate hot cut process in place.

Moreover, all customers will want a seamless migration of voice *and* data services should the need arise to convert from line sharing or line splitting to loop sharing. Customer expectations with respect to migrating data services are the same as customer expectations regarding migrating features or functionality. Existing UNE-P line splitting customers who find themselves involved with a conversion to UNE-L will demand, and rightfully so, to have both voice and data migrated with minimal interruption. Thus, Covad's business is directly impacted by whether Verizon has an adequate loop migration process.

It is also important to note that several critical issues are still being worked out by carriers through various cooperative means. In New York, for example, the Commission noted that certain issues related to xDSL loops are under ongoing evaluation in the Verizon/CLEC change management process and will be included in the process once resolved or submitted to the Commission for resolution.¹⁰ Similarly, in Pennsylvania, Covad and other carriers signed a settlement agreement requiring that "Verizon and Covad will work collaboratively" to ensure satisfactory migrations of shared, split and DSL loops.¹¹ As these cooperative efforts bear fruit

¹⁰ NY PSC Case 02-C-1425.

¹¹ PA PUC Docket No. M-00031754.

(or are resolved by regulators if they fail to do so), the resulting processes must be incorporated into the tariff at the generally prevailing rates.

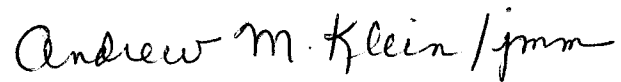
Adequate hot cut processes are necessary to eliminate operational and economic barriers to facilities-based competition. The existence of a migration process for stand-alone xDSL loops is, in addition, specifically necessary to accommodate new and evolving competitive technologies like Voice over Internet Protocol (“VoIP”).¹² With the advent of VoIP, broadband services and the minimal set of UNEs and hot cut processes needed to provide them are critical and, in many ways, are the only important source of local facilities based voice competition. The Department should ensure that adequate steps are taken to ensure the continued viability of such competition.

¹² VoIP is a term of art that refers to a technology that provides an instantaneous or slightly-delayed real-time transmission of voice, data, and audio, or a combination thereof, in a digital format using Internet Protocol (IP) data packet transmission.

V. **CONCLUSION**

In light of the foregoing, the Department of Telecommunications and Energy should adapt the hot cut process ordered by the New York Public Service Commission for use in Massachusetts, ordering Verizon to tariff the process and rates, avoid any discrimination between voice and data loops, and update the hot cut processes to incorporate xDSL issues (and other data loop processes) still being addressed in change management and similar cooperative processes, and take such other measures as the Department may deem to be just and proper.

Respectfully submitted,

A handwritten signature in black ink that reads "Andrew M. Klein /jmm". The signature is written in a cursive, flowing style.

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